

PLANNING COMMISSION MINUTES

JULY 19, 2007

PUBLIC HEARING

New Business

CASE NO. 8588

Change in zoning from R-4 Single-Family Residential to OR-3 Office/Residential and a waiver of a portion of required perimeter landscaping on property located at 1442 and 1444 Gardiner Lane, containing 0.86 acres, being in Louisville Metro.

Owners/Applicants:	Cherry Hill Properties, LLC c/o John and Walter Franck 1709 Lincoln Avenue Louisville, KY 40213
Representative:	Kathryn Matheny 9009 Preston Highway Louisville, KY 40219
Engineer/Designer:	Richard Matheny Cardinal Planning and Design Inc. 9009 Preston Highway Louisville, KY 40219
Existing Uses:	Single-family residential & office
Proposed Use:	Office
Council District:	10—Jim King
Staff Case Manager:	Stephen Lutz, AICP

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

The following spoke in favor of this request:

Kathryn Matheny, 9009 Preston Highway, Louisville, KY 40219

John Franck, 1709 Lincoln Avenue, Louisville, KY 40213

PLANNING COMMISSION MINUTES

JULY 19, 2007

PUBLIC HEARING

New Business

CASE NO. 8588

The following spoke in opposition:

No one spoke.

The following spoke neither for nor against:

Wade Hendricks, Stoll Keenon Ogden PLLC, 2000 PNC Plaza, 500 West Jefferson Street, Louisville, KY 40202

Agency Personnel:

Stephen Lutz, Planning Supervisor

AGENCY TESTIMONY:

3:48:55 Stephen Lutz presented the case and showed a Power Point presentation which included maps and photos of the site and the surrounding area (see staff report for verbatim presentation.) He said there are a number of non-residential uses surrounding the site. He said the exterior of the house will remain the same, although the driveway will be relocated to better suit the business. Parking will be in the rear of the building.

SUMMARY OF TESTIMONY OF PROPONENTS:

3:55:39 Kathy Matheny, the applicant's representative, said the applicant has agreed to **two additional binding elements** with the City of Watterson Park:

1) The following uses are permitted under the OR-3 listing for these properties: Offices, professional and business; Doctor's offices; Dwellings (single family); Computer Programming Services; Photographic portrait studios; Home Occupations; Artist studios; and Barbers / Cosmetologists / Hairdressers / Manicurists.

2) The applicant will give the City of Watterson Park notice of any application on this site which changes the footprint of the buildings or is a use not listed above.

Ms. Matheny showed a Power Point presentation and explained the applicant's justification for the waiver request. Some of the photos shown were of the back

PLANNING COMMISSION MINUTES

JULY 19, 2007

PUBLIC HEARING

New Business

CASE NO. 8588

yard, where the parking was proposed and where the landscape waiver would be applied. A privacy fence would be added to this rear area.

4:00:30 In response to a question from Commissioner Wells-Hatfield, Ms. Matheny said the hours of operation are not yet known precisely but will be closed Saturday and Sunday.

4:01:29 John Franck was called but declined to speak unless the commissioners had any questions for him.

SUMMARY OF TESTIMONY OF OPPONENTS:

No one spoke.

SUMMARY OF TESTIMONY OF THOSE NEITHER FOR NOR AGAINST:

4:02:03 Wade Hendricks, an attorney representing the City of Watterson Park, said the City had some concerns about whether some of the uses in the OR-3 zoning category would be appropriate for this location. However, with the applicant's agreement to the two binding elements proposed by the City of Watterson Park, the City no longer has any objection to this proposal. There was some discussion about the hours of operation.

REBUTTAL:

Commissioner Queenan said the staff report said the property had three extra parking spaces – if those were eliminated, could the applicant dispense with the requested landscape waiver? Ms. Matheny said no, because the existing garage is only five feet off the property line. She further explained about the proposed alterations to the driveway.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the July 19, 2007 proceedings.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

PLANNING COMMISSION MINUTES

JULY 19, 2007

PUBLIC HEARING

New Business

CASE NO. 8588

Zoning

On a motion by Commissioner Hamilton, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application to rezone two existing structures along a Collector Level Road conforms with the Suburban Workplace Form District which envisions “offices uses set back from the street in a landscaped setting” and allows office uses and encourages development and redevelopment in areas with existing workplaces and infrastructure; that the area is no longer residential in nature due to the introduction of several large businesses in the past twenty-five years including Kentucky Fried Chicken Headquarters (YUM), the Main Post Office, a large hotel, and car dealership along with other office and commercial uses in the area; and the proposed zoning classification and use is a low impact use in an appropriate Form District, and therefore appropriate under KRS 100.213 because it is consistent with the Guidelines and Policies of the current Comprehensive Plan; and

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application complies with the intent and the policies of Guideline 1 B 10 because this portion of Gardiner Lane sits in the Suburban Workplace Form District; that this Form area allows office uses and encourages development and redevelopment in areas with existing workplaces and infrastructure; that the location on a Collector Level Street allows for good access; that there is other office and commercial space in the area and for these reasons, this proposal for the addition of two offices buildings in a Suburban Workplace location is appropriate and consistent with intent of Guideline 1 B 10.; and

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application complies with the intent and the policies of Guideline 3 for all the location and design reasons set forth above and below and because these are existing structures and are compatible with the streetscape; there will be no discernible changes to the appearance of the area; the entranceways will be redone to allow for a single point of entry between the two buildings with parking in the rear thus the streetscape will remain basically the same with the

PLANNING COMMISSION MINUTES

JULY 19, 2007

PUBLIC HEARING

New Business

CASE NO. 8588

elimination of one curb cut; the office use will create minimal new traffic in the area and surrounding uses are either equal or much more intense uses in the amount of traffic generated by their businesses; the surrounding uses except for one are all more intense including large-scale offices use, commercial uses and automobile repairs uses in the CM zoning to the south of the site; an office use does not generate any odor or noise issues and the site is very close to the Watterson Expressway so ambient noise in the area is already high.; that no new outdoor lighting is proposed so no adverse impacts will occur to the area; that parking is in the rear and the only residentially zoned property in the area is to the west and this section will be screened to prevent any light intrusion; thus the proposal is compatible with the Suburban Workplace Form District and consistent with Guideline 3, Policies 1, 4, 5, 6, 7, 8, 9, 22, 23 and 24.; and

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application conforms with the intent of Guidelines 4 and 5 in that its size and location does not require open space nor is it in an area that has been identified as a natural or historic resource requiring preservation, having special districts or an area with soil and or steep slope issues; and

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application conforms to the policies of Guideline 6, Policies 3, 5 and 6 because the proposal reuses existing structures, thus encouraging redevelopment and reinvestment into developed areas; that the area is served by existing public infrastructure and utility connections of water, sewer and electric services thus reducing the cost of land development and preventing sprawl; and

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application proposes adequate parking and ingress and egress locations for the proposed use; that the site has access to mass transit in TARC Route 58; the site has appropriate pedestrian connections to the public roadway system; the applicant is dedicating right-of way as requested by Public Works; and the site has adequate parking for the proposed use in conformance with Guideline 7, Policies 1, 2, 3, 9 and 10; and

PLANNING COMMISSION MINUTES

JULY 19, 2007

PUBLIC HEARING

New Business

CASE NO. 8588

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application meets the intent and the policies of Guidelines 8 and 9 because the proposal consists only of an internal driveway and parking spaces and does not impact any environmentally sensitive areas, scenic corridors or streetscape issues and the site is also near available TARC service along Gardiner Lane; and

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application complies with intent and the policies of Guidelines 10 and 11 because they are existing structures and no portion of the property to be disturbed is within a floodplain or a blue line stream; that the only construction is a new entranceway and parking areas; and applicant states that appropriate construction practices will be employed in this construction to protect water quality by the use of effective sediment and erosion practices in accordance with applicable regulations and best management practices; and

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application complies with the intent and the policies of Guideline 12 because these are existing structures in a developed area, thus its location will work to decrease vehicular miles traveled between home and trips to neighboring businesses, shopping centers, work designations and other personal trips and because the development is served by TARC; and

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application complies with the intent Guideline 13 by maintaining the existing landscape pattern in the area; and

WHEREAS, the Commission finds based upon a review of the Planning Commission Record, public hearing testimony and exhibits submitted that the application conforms to the policies of Guideline 14 because these are existing buildings and all necessary utilities are available nearby and will be connected via existing facilities; and

WHEREAS, based on all of the foregoing, the Commission finds that the proposal to rezone two existing structures to OR-3 to serve as office buildings

PLANNING COMMISSION MINUTES

JULY 19, 2007

PUBLIC HEARING

New Business

CASE NO. 8588

located along a Collector Level Road is appropriate under KRS 100.213 because it is consistent with the Guidelines and Policies of the current Comprehensive Plan will enhance this Suburban Workplace Corridor with a viable use for individuals in the surrounding workplace and the proposal is in conformance with all applicable guidelines of the Cornerstone 2020 Comprehensive Plan and consistent with KRS Chapter 100; and

WHEREAS, The Commission finds that the proposal has received preliminary approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Department of Public Works, and the Metropolitan Sewer District; and

WHEREAS, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville Metro Government that the change in zoning **from R-4 Single Family Residential to OR-3 Office Residential** on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Ernst, Storm, Wells-Hatfield, Abstain, Blake, Hamilton, Howard, Queenan, and Fleischaker.

NO: No one.

NOT PRESENT: Commissioner Carlson.

ABSTAINING: No one.

Landscape Waiver

On a motion by Commissioner Hamilton, the following resolution was adopted:

WHEREAS, the Commission further finds that the applicant has requested waivers to 1) to waive the requirements of LDC 10.2 for a 15 foot LBA on the west side yard in the areas indicated and 2) to waive the requirement in LDC

PLANNING COMMISSION MINUTES

JULY 19, 2007

PUBLIC HEARING

New Business

CASE NO. 8588

10.2 for a continuous perimeter screen on the west side yard in the areas indicated; and

WHEREAS, the Commission further finds that the waiver involving Chapter 10 of the LDC will not adversely affect adjacent property owners because the building, asphalted areas and all features are existing and the landscape buffer on the west side is not necessary because of existing trees, plantings and vegetation in that area; and

WHEREAS, the Commission further finds that the waiver of Chapter 10 will not violate the Comprehensive Plan because this is an existing building and its location, size and shape on the lot make the side landscaping buffers either unnecessary or impossible to meet. The lot has nice green spaces and existing residentially style landscaping with trees and bushes which are mature and attractive. The intent of Comprehensive Plan is met because the existing building and landscaping maintain the residential look of the area and the existing trees and scrubs are compatible with how the buildings and properties are separated on the block and in the area; and

WHEREAS, the Commission further finds that the extent of waiver of the regulations are the minimum necessary to afford relief to the applicant because the applicant proposes to honor the intent of the Comprehensive Plan by maintaining the existing landscaping including mature trees and bushes and open green area that is compatible with the area and preserves the streetscape along Gardiner Lane. The one area along the parking lot will have a privacy fence to screen the rear parking area from the adjacent landowner's lot; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because this is a rezoning of existing buildings which are within 15 feet of the west property line and the size of the lot and existing conditions do not dictate the need for full compliance with applicable new landscape buffering rules; and

WHEREAS, The Commission finds that the requested waiver is in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

PLANNING COMMISSION MINUTES

JULY 19, 2007

PUBLIC HEARING

New Business

CASE NO. 8588

RESOLVED, that the Louisville Metro Planning Commission does hereby **GRANT** the waivers requested by the applicant to waive the requirements of LDC 10.2 for a 15 foot LBA on the west side yard in the areas indicated and to waive the requirement in LDC 10.2 for a continuous perimeter screen on the west side yard in the areas indicated, and as shown on the Site Plan.

The vote was as follows:

YES: Commissioners Ernst, Storm, Wells-Hatfield, Abstain, Blake, Hamilton, Howard, Queenan, and Fleischaker.

NO: No one.

NOT PRESENT: Commissioner Carlson.

ABSTAINING: No one.

Development Plan

On a motion by Commissioner Hamilton, the following resolution was adopted:

RESOLVED, That the Louisville Metro Planning Commission does hereby **APPROVE** the district development plan **SUBJECT** to the following binding elements:

Binding Elements

1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.
2. The square footage of the development shall not exceed 3,780 square foot for the office (1,703 square foot at 1442 Gardiner Lane and 2,077 at 1444 Gardiner Lane).
3. Signs shall be in accordance with Chapter 8 of the LDC.

PLANNING COMMISSION MINUTES

JULY 19, 2007

PUBLIC HEARING

New Business

CASE NO. 8588

4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors,

PLANNING COMMISSION MINUTES

JULY 19, 2007

PUBLIC HEARING

New Business

CASE NO. 8588

subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the (July 19, 2007 Planning Commission meeting.
10. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
11. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
12. The following uses are permitted under the OR-3 listing for these properties: Offices, professional and business; Doctor's offices; Dwellings (single family); Computer Programming Services; Photographic portrait studios; Home Occupations; Artist studios; and Barbers / Cosmetologists / Hairdressers / Manicurists.
13. The applicant will give the City of Watterson Park notice of any application on this site which changes the footprint of the buildings or is a use not listed above.

The vote was as follows:

YES: Commissioners Ernst, Storm, Wells-Hatfield, Abstain, Blake, Hamilton, Howard, Queenan, and Fleischaker.

NO: No one.

NOT PRESENT: Commissioner Carlson.

ABSTAINING: No one.

PLANNING COMMISSION MINUTES

JULY 19, 2007

PUBLIC HEARING

New Business

CASE NO. 8588